
SENATE BILL 6128

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By Senators West, Jacobsen, Rossi, Kastama, Snyder, Morton, Fraser, Finkbeiner, Sheahan, Hochstatter, T. Sheldon, Honeyford, Roach, Rasmussen, Hale, Hewitt and Oke

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1 AN ACT Relating to sales and use tax exemptions for alternative
2 energy sources; amending RCW 82.63.010 and 82.08.02565; and providing
3 an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 82.63.010 and 1995 1st sp.s. c 3 s 12 are each amended
6 to read as follows:

7 Unless the context clearly requires otherwise, the definitions in
8 this section apply throughout this chapter.

9 (1) "Advanced computing" means technologies used in the designing
10 and developing of computing hardware and software, including
11 innovations in designing the full spectrum of hardware from hand-held
12 calculators to super computers, and peripheral equipment.

13 (2) "Advanced materials" means materials with engineered properties
14 created through the development of specialized processing and synthesis
15 technology, including ceramics, high value-added metals, electronic
16 materials, composites, polymers, and biomaterials.

17 (3) "Alternative energy source" means a fuel cell, and any
18 technology that converts energy from a nonfinite source to electrical
19 energy.

1 ~~(4)~~ (4) "Applicant" means a person applying for a tax deferral under
2 this chapter.

3 ~~((+4))~~ (5) "Biotechnology" means the application of technologies,
4 such as recombinant DNA techniques, biochemistry, molecular and
5 cellular biology, genetics and genetic engineering, cell fusion
6 techniques, and new bioprocesses, using living organisms, or parts of
7 organisms, to produce or modify products, to improve plants or animals,
8 to develop microorganisms for specific uses, to identify targets for
9 small molecule pharmaceutical development, or to transform biological
10 systems into useful processes and products or to develop microorganisms
11 for specific uses.

12 ~~((+5))~~ (6) "Department" means the department of revenue.

13 ~~((+6))~~ (7) "Electronic device technology" means technologies
14 involving microelectronics; semiconductors; electronic equipment and
15 instrumentation; radio frequency, microwave, and millimeter
16 electronics; optical and optic-electrical devices; and data and digital
17 communications and imaging devices.

18 ~~((+7))~~ (8) "Eligible investment project" means an investment
19 project which either initiates a new operation, or expands or
20 diversifies a current operation by expanding, renovating, or equipping
21 an existing facility. The lessor or owner of the qualified building is
22 not eligible for a deferral unless the underlying ownership of the
23 buildings, machinery, and equipment vests exclusively in the same
24 person, or unless the lessor by written contract agrees to pass the
25 economic benefit of the deferral to the lessee in the form of reduced
26 rent payments.

27 ~~((+8))~~ (9) "Environmental technology" means assessment and
28 prevention of threats or damage to human health or the environment,
29 environmental cleanup, and the development of alternative energy
30 sources.

31 ~~((+9))~~ (10) "Fuel cell" means a technology involving an
32 electrochemical reaction that generates electricity by combining atoms
33 of hydrogen and oxygen in the presence of a catalyst.

34 (11) "Investment project" means an investment in qualified
35 buildings or qualified machinery and equipment, including labor and
36 services rendered in the planning, installation, and construction or
37 improvement of the project.

38 ~~((+10))~~ (12) "Person" has the meaning given in RCW 82.04.030.

1 (~~(11)~~) (13) "Pilot scale manufacturing" means design,
2 construction, and testing of preproduction prototypes and models in the
3 fields of biotechnology, advanced computing, electronic device
4 technology, advanced materials, and environmental technology other than
5 for commercial sale. As used in this subsection, "commercial sale"
6 excludes sales of prototypes or sales for market testing if the total
7 gross receipts from such sales of the product, service, or process do
8 not exceed one million dollars.

9 (~~(12)~~) (14) "Qualified buildings" means construction of new
10 structures, and expansion or renovation of existing structures for the
11 purpose of increasing floor space or production capacity used for pilot
12 scale manufacturing or qualified research and development, including
13 plant offices and other facilities that are an essential or an integral
14 part of a structure used for pilot scale manufacturing or qualified
15 research and development. If a building is used partly for pilot scale
16 manufacturing or qualified research and development, and partly for
17 other purposes, the applicable tax deferral shall be determined by
18 apportionment of the costs of construction under rules adopted by the
19 department.

20 (~~(13)~~) (15) "Qualified machinery and equipment" means fixtures,
21 equipment, and support facilities that are an integral and necessary
22 part of a pilot scale manufacturing or qualified research and
23 development operation. "Qualified machinery and equipment" includes:
24 Computers; software; data processing equipment; laboratory equipment,
25 instrumentation, and other devices used in a process of experimentation
26 to develop a new or improved pilot model, plant process, product,
27 formula, invention, or similar property; manufacturing components such
28 as belts, pulleys, shafts, and moving parts; molds, tools, and dies;
29 vats, tanks, and fermenters; operating structures; and all other
30 equipment used to control, monitor, or operate the machinery. For
31 purposes of this chapter, qualified machinery and equipment must be
32 either new to the taxing jurisdiction of the state or new to the
33 certificate holder, except that used machinery and equipment may be
34 treated as qualified machinery and equipment if the certificate holder
35 either brings the machinery and equipment into Washington or makes a
36 retail purchase of the machinery and equipment in Washington or
37 elsewhere.

38 (~~(14)~~) (16) "Qualified research and development" means research
39 and development performed within this state in the fields of advanced

1 computing, advanced materials, biotechnology, electronic device
2 technology, and environmental technology.

3 ~~((15))~~ (17) "Recipient" means a person receiving a tax deferral
4 under this chapter.

5 ~~((16))~~ (18) "Research and development" means activities performed
6 to discover technological information, and technical and nonroutine
7 activities concerned with translating technological information into
8 new or improved products, processes, techniques, formulas, inventions,
9 or software. The term includes exploration of a new use for an
10 existing drug, device, or biological product if the new use requires
11 separate licensing by the federal food and drug administration under
12 chapter 21, C.F.R., as amended. The term does not include adaptation
13 or duplication of existing products where the products are not
14 substantially improved by application of the technology, nor does the
15 term include surveys and studies, social science and humanities
16 research, market research or testing, quality control, sale promotion
17 and service, computer software developed for internal use, and research
18 in areas such as improved style, taste, and seasonal design.

19 **Sec. 2.** RCW 82.08.02565 and 1999 c 211 s 5 are each amended to
20 read as follows:

21 (1) The tax levied by RCW 82.08.020 shall not apply to sales to a
22 manufacturer or processor for hire of machinery and equipment used
23 directly in a manufacturing operation or research and development
24 operation, to sales to a person engaged in testing for a manufacturer
25 or processor for hire of machinery and equipment used directly in a
26 testing operation, or to sales of or charges made for labor and
27 services rendered in respect to installing, repairing, cleaning,
28 altering, or improving the machinery and equipment, but only when the
29 purchaser provides the seller with an exemption certificate in a form
30 and manner prescribed by the department by rule. The seller shall
31 retain a copy of the certificate for the seller's files.

32 (2) For purposes of this section and RCW 82.12.02565:

33 (a) "Machinery and equipment" means industrial fixtures, devices,
34 and support facilities, and tangible personal property that becomes an
35 ingredient or component thereof, including repair parts and replacement
36 parts. "Machinery and equipment" includes pollution control equipment
37 installed and used in a manufacturing operation, testing operation, or
38 research and development operation to prevent air pollution, water

1 pollution, or contamination that might otherwise result from the
2 manufacturing operation, testing operation, or research and development
3 operation.

4 (b) "Machinery and equipment" does not include:

5 (i) Hand-powered tools;

6 (ii) Property with a useful life of less than one year;

7 (iii) Buildings, other than machinery and equipment that is
8 permanently affixed to or becomes a physical part of a building; and

9 (iv) Building fixtures that are not integral to the manufacturing
10 operation, testing operation, or research and development operation
11 that are permanently affixed to and become a physical part of a
12 building, such as utility systems for heating, ventilation, air
13 conditioning, communications, plumbing, or electrical.

14 (c) Machinery and equipment is "used directly" in a manufacturing
15 operation, testing operation, or research and development operation if
16 the machinery and equipment:

17 (i) Acts upon or interacts with an item of tangible personal
18 property;

19 (ii) Conveys, transports, handles, or temporarily stores an item of
20 tangible personal property at the manufacturing site or testing site;

21 (iii) Controls, guides, measures, verifies, aligns, regulates, or
22 tests tangible personal property at the site or away from the site;

23 (iv) Provides physical support for or access to tangible personal
24 property;

25 (v) Produces power for, or lubricates machinery and equipment;

26 (vi) Produces another item of tangible personal property for use in
27 the manufacturing operation, testing operation, or research and
28 development operation;

29 (vii) Places tangible personal property in the container, package,
30 or wrapping in which the tangible personal property is normally sold or
31 transported; or

32 (viii) Is integral to research and development as defined in RCW
33 82.63.010.

34 (d) "Manufacturing operation" means the manufacturing of articles,
35 substances, or commodities for sale as tangible personal property. A
36 manufacturing operation begins at the point where the raw materials
37 enter the manufacturing site and ends at the point where the processed
38 material leaves the manufacturing site. The term also includes: (i)
39 The manufacturing of alternative energy sources, as defined in RCW

1 82.63.010; and (ii) that portion of a cogeneration project that is used
2 to generate power for consumption within the manufacturing site of
3 which the cogeneration project is an integral part. The term does not
4 include the production of electricity by a light and power business as
5 defined in RCW 82.16.010 or the preparation of food products on the
6 premises of a person selling food products at retail.

7 (e) "Cogeneration" means the simultaneous generation of electrical
8 energy and low-grade heat from the same fuel.

9 (f) "Research and development operation" means engaging in research
10 and development as defined in RCW 82.63.010 by a manufacturer or
11 processor for hire.

12 (g) "Testing" means activities performed to establish or determine
13 the properties, qualities, and limitations of tangible personal
14 property.

15 (h) "Testing operation" means the testing of tangible personal
16 property for a manufacturer or processor for hire. A testing operation
17 begins at the point where the tangible personal property enters the
18 testing site and ends at the point where the tangible personal property
19 leaves the testing site. The term also includes that portion of a
20 cogeneration project that is used to generate power for consumption
21 within the site of which the cogeneration project is an integral part.
22 The term does not include the production of electricity by a light and
23 power business as defined in RCW 82.16.010 or the preparation of food
24 products on the premises of a person selling food products at retail.

25 (3) The department, in consultation with the department of
26 community, trade, and economic development, may define the term
27 "nonfinite source" for the purposes of RCW 82.63.010.

28 NEW SECTION. Sec. 3. This act takes effect July 1, 2003.

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